United Nations A/HRC/31/NGO/140

General Assembly

Distr.: General
22 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02649(E)

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Ending discrimination based on caste and descent

Human Rights Watch and the International Dalit Solidarity Network (IDSN) look forward to the annual report of the Special Rapporteur on Minority Issues, Rita Izsák-Ndiaye. **We also welcome the** Office of the High Commissioner for Human Rights (OHCHR)**'s organization of a side-event on minorities and caste discrimination on March 16, 2016 at the Human Rights Council.**

The OHCHR has made the elimination of caste-based discrimination a strategic priority in its anti-discrimination work, and the High Commissioner **for Human Rights and the UN General Secretary have established caste as a ground of discrimination to be tackled on par with other forms of discrimination, such as race, gender, ethnicity, and sexual orientation.**[1]

Caste-based discrimination and analogous forms of discrimination affect approximately 260 million people globally, the vast majority living in South Asia.[2] Caste-based discrimination is also found in communities migrated from South Asia across the globe and in caste-stratified societies in Africa, the Middle East, and other parts of Asia. Caste-based discrimination is a violation of international human rights law, inherently contradicting the universal principles of non-discrimination, dignity, and equality. It is also a violation of the principles underpinning humanitarian assistance.

Despite commitments to end caste and descent-based discrimination, the practice persists due to poor enforcement of laws and policies. Due to entrenched and dehumanizing discriminatory practices by both state and non-state actors, Dalits in South Asia and other communities, such as the Muhamesheen in Yemen and the Haratines in Mauritania, are deprived of their basic civil, political, economic, social, and cultural rights. Affected communities face severe restrictions and limited access to resources, services and development, keeping most in severe poverty. As socially and economically excluded and marginalized communities, the rights to health, education, water and sanitation, security, political representation and access to decision-making in state and private institutions is often limited. Dalit women are particularly disadvantaged due to the intersectional discrimination of caste and gender. Dalit women suffer from multiple forms of discrimination based on caste, gender and poverty, which make them highly vulnerable to physical assaults, including rape and forced sex work, and other crimes which often go unpunished.

Dalits and many similarly affected communities also are disproportionately subjected to forced and bonded labor and have unequal access to employment, land, and markets. The vast majority of forced and bonded laborers in South Asia are from Dalit communities and minority groups. Caste-based prejudice has a negative impact on social welfare policies. For instance in India, Human Rights Watch found that discrimination by school authorities creates an unwelcome atmosphere that can lead a child to stop going to school, thus denying them their right to education despite an ambitious law promising universal access to basic schooling.[3]

Access to justice is inhibited by entrenched caste discrimination within the criminal justice system and enforcement agencies. In many affected countries, the police exhibit caste biases in perpetrating or colluding in atrocities against Dalits. In India, for example, atrocities and violence against Dalits are on a double-digit rise, whereas acquittal rates for these crimes remain extremely high. The attacks are brutal and inhumane, ranging from gang-rapes to the recent burning alive of two children in India's Haryana state. Police negligence and abuse of power in Nepal due to caste bias, also remains a massive obstacle to justice.[4]

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[1] UN High Commissioner and Secretary-General statements on caste, IDSN.org, http://idsn.org/un-2/high-commissioner-for-human-rights/ (accessed February 12, 2016).
[2] Caste-based discrimination in South Asia, IDSN 2009
http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201102/20110228_510eustudy_en.pdf
[3] Human Rights Watch, "They Say We're Dirty:"Denying an Education to India's Marginalized,
https://www.hrw.org/report/2014/04/22/they-say-were-dirty/denying-education-indias-marginalized
[4] Human Rights Situation of the Dalit Community in Nepal, Dalit Civil Society Organisations Coalition and IDSN
Joint UPR Submission Nepal November 2015

A special concern is the continued practice of "manual scavenging" in India – the cleaning of human waste by communities considered low-caste – due to non-enforcement of the laws prohibiting this discriminatory practice.[5]

Human Rights Watch and IDSN are concerned that the 2030 Sustainable Development Goals were adopted without any reference to millions impoverished and excluded due to caste discrimination. The goals are unlikely to be achieved without inclusion of specific indicators addressing caste-based inequality and exclusion.

Discrimination based on caste in humanitarian aid delivery is well documented, and prevailed also in recent humanitarian crises, e.g. in the aftermath of the earthquake in Nepal[6]. Caste-affected communities are either prevented from or receive less aid than others.[7]

The systemic and entrenched nature of caste-based human rights violations have been addressed by the UN Treaty Bodies, Special Procedures Mandate Holders, the former UN Sub-Committee on the Promotion and Protection of Human Rights, and in Universal Periodic Reviews. Human rights bodies have consistently raised their concerns on caste-related human rights violations and continuously urged governments to strengthen the protection of affected people through legislative, policy, institutional, budgetary and other measures. However, Fundamental challenges still remain in all caste-affected countries. Entrenched caste biases, lack of access to justice and effective implementation of policies remain core issues.

Recommendations

Human Rights Council

Human Rights Watch and the International Dalit Solidarity Network urge the HRC and member states to promote and endorse the draft UN Draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent (UN P&G) published by the HRC in 2009 (A/HRC/11/CRP.3);

The HRC should adopt a resolution on the UN P&G and institutionalize regular reporting and effective dialogue on the elimination of discrimination based on caste and analogous forms of inherited status.

We urge the Human Rights Council, its member states and observer states to call on states affected by caste discrimination to:

- Act on the recommendations of the Special Rapporteur on Minority Issues in her report presented to the Human Rights Council at its 31st session;
- Enact and enforce anti-caste discrimination legislation; addressing as a priority the existing patterns of impunity for human rights violations against Dalits and other similarly affected communities as committed by both state actors and non-state actors, and ensure their fair and due access to criminal justice;
- Endorse the draft UN P&G and ensure their implementation through national action plans to combat caste-based discrimination; develop and implement national action plans with sufficient funding and clear objectives and measures for poverty reduction strategies, employment, health, education and access to basic services including water and sanitation; pay specific attention to the issues of caste-affected women, and conduct public awareness campaigns in coordination with affected groups;

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http://idsn.org/wp-content/uploads/2015/04/Dalit-Civil-Society-Organisations-Coalition-and-IDSN-Joint-UPR-Submission-Nepal-November-2015.pdf

[5] Human Rights Watch, Cleaning Human Waste; "Manual Scavenging," Caste, and Discrimination in India, August 25, 2014, https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india

[6] Nepal: Earthquake recovery must safeguard human rights – Amnesty International USA http://www.amnestyusa.org/sites/default/files/p4583_report_-_nepal_report_on_earthquake_web.pdf_-_adobe_acrobat_pro_0.pdf

[7] SASY/National Dalit Watch, No Respite for Dalits in Disaster Response, Tamil Nadu, 2015 http://idsn.org/20288-2/

- Take note of and act on the concluding observations and recommendations on caste discrimination by UN Treaty Bodies, Special Procedures Mandate Holders, and in Universal Periodic Reviews in the framework of national action plans;
- Develop specific indicators and use disaggregated data for the implementation and monitoring of 2013 Sustainable Development Goals;
- Take action on caste-based discrimination as a serious impediment to ensuring equality in disaster relief and rehabilitation, and develop appropriate disaster management laws, policies, institutions and programming in cooperation with humanitarian stakeholders and affected communities

United Nations Organizations

We call on the United Nations, including UN specialized agencies and UN Country teams to:

- Address discrimination based on caste and analogues forms of discrimination at all levels and promote the endorsement of the draft UN P&G and their implementation;
- Take due note of the development of a UN Guidance Tool on Discrimination Based on Work and Descent (to be published in 2016);
- Promote use of specific indicators and disaggregated data in relation to the implementation and monitoring of 2013 Sustainable Development Goals;
- Recognize and act on caste-based discrimination as a serious impediment to ensuring equality in disaster response in any future work on humanitarian standards, disaster relief and rehabilitation;
- Recognize discrimination based on caste and analogous forms of discrimination as a gross human rights violation which should be addressed in the context of the Durban Review Conference and in its follow-up mechanisms;
- Conduct country level studies on the situation of communities discriminated on the basis of caste and analogous systems of inherited status in under-researched regions; and initiate a thematic, regional level study in South Asia on violence against Dalit women and research on the nexus of caste discrimination and forced and bonded labor.

International Dalit Solidarity Network, an NGO without consultative status, also shares the views expressed in this statement.